

Message Text

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PAGE 01 LIMA 02892 060742Z
ACTION OPIC-06

INFO OCT-01 ARA-14 ISO-00 EB-08 AID-05 COME-00 TRSE-00

L-03 OMB-01 CIAE-00 INR-10 NSAE-00 /048 W

-----010970 070450Z /21

R 051900Z APR 78

FM AMEMBASSY LIMA

TO SECSTATE WASHDC 9442

INFO AMEMBASSY BOGOTA

AMEMBASSY CARACAS

AMEMBASSY LA PAZ

AMEMBASSY QUITO

UNCLAS LIMA 2892

EO 11652: N/A

TAGS: EFIN, ECIN, PE

SUBJ: OPIC TALKS WITH ANDEAN PACT LEGAL OFFICERS AND GOP

1. OPIC COUNSEL WEISENFELD VISITED LIMA MARCH 30-APRIL 4 TO
CONTINUE TALKS WITH LEGAL OFFICERS OF ANDEAN PACT REGARDING
THE REESTABLISHMENT OF OPIC PROGRAMS IN THE ANDEAN COUNTRIES,
WEISENFELD MET AS WELL WITH REPRESENTATIVES OF PERUVIAN
MINISTRIES WHICH HAVE EXPRESSED AN INTEREST IN RESTORATION OF
THE OPIC PROGRAM. TALKS IN LIMA FOLLOWED SIMILAR MEETINGS THE
PRECEEDING WEEK IN LA PAZ AND QUITO.

2. IN PRIOR MEETINGS WITH ANDEAN PACT LEGAL OFFICERS, CON-
VERSATION FOCUSED ON THE MANNER IN WHICH SUITABLE ARRANGEMENTS
FOR THE PROTECTION OF OPIC'S LEGITIMATE SALVAGE INTERESTS COULD
BE ESTABLISHED CONSISTENT WITH THE STANDARDS LAID DOWN IN
ARTICLE 51 OF DECISION 24. THE OPIC POSITION ON SUBROGATION
APPEARED TO HAVE BEEN ACCEPTED FOLLOWING MEETINGS IN LIMA LAST
NOVEMBER AND IT WAS WEISENFELD'S INTENTION ON THIS VISIT TO LIMA
TO ATTEMPT TO WORK THROUGH THE PROBLEMS POSED BY ANTICIPATED
OPPOSITION TO INTERNATIONAL ARBITRATION.

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3. APPARENTLY AS A RESULT OF DOUBTS EXPRESSED BY LAWYERS FOR
THE FOREIGN MINISTRY IN QUITO LAST WEEK REGARDING THE OPIC
POSITION ON SUBROGATION, THE LEGAL OFFICERS OF THE ANDEAN PACT
THIS WEEK WITHDRAW THEIR INFORMAL APPROVAL OF THE OPIC PROPOSAL
REGARDING SUBROGATION. THEY TOOK THE POSITION THAT THEIR PRIOR
ACQUIESCENCE IN THE OPIC PROPOSAL SHOULD NOT BE CONSTRUED AS
MORE THAN A TESTING OF THE WATERS. IN LIEU OF THE LANGUAGE

DISCUSSED LAST NOVEMBER, THEY PUT FORWARD A NEW PROPOSAL WHICH WOULD REMOVE OPIC ONE STEP FROM AN EXPROPRIATION CONTROVERSY. WEISENFELD TOOK THE PROPOSAL UNDER ADVISEMENT.

4. IN VIEW OF THE CHANGE OF HEART OF ANDEAN PACT LEGAL OFFICERS ON THE SUBROGATION QUESTION, WEISENFELD MERELY SKETCHED THE OPIC POSITION ON ARBITRATION. A PROLONGED DEFENSE OF THE POSITION SEEMED POINTLESS.

5. WEISENFELD CHARACTERIZES THE SUDDEN AND UNANTICIPATED SHIFT OF POSITION ON THE PART OF ANDEAN PACT LEGAL OFFICERS AS A LACK OF POLITICAL NERVE TINGED WITH A MINIMUM DEGREE OF CONVICTION. THEY TOLD HIM POINTEDLY THAT THE QUESTIONS UNDER DISCUSSION WERE POLITICAL ONES AND INVITED HIM TO CONTINUE HIS TALKS WITH INTERESTED MEMBER STATES, CONCEDING THAT THE STATES MIGHT WELL BE MOVED TO TAKE A MORE FLEXIBLE POSITION ON THESE ISSUES. WEISENFELD WAS LEFT WITH THE IMPRESSION THAT ANDEAN PACT OFFICIAL WOULD BE DELIGHTED TO SEE THIS POLITICAL HOT POTATO RESOLVED FOR THEM BY THE ACTION OF INTERESTED MEMBER STATES.

6. WEISENFELD IS UNCERTAIN ABOUT THE EFFECT OF THIS SHIFT ON THE THINKING OF BOLIVIAN GOVERNMENT OFFICIALS WHO APPEARED LAST WEEK TO BE PERFECTLY SATISFIED WITH THE OPIC POSITION, OR ON THE THINKING OF ECUADORIAN OFFICIALS. AFTER HIS RETURN TO WASHINGTON, WEISENFELD WILL SPEAK BY PHONE WITH THESE OFFICIALS

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AND WITH EMBASSY OFFICERS IN LA PAZ AND QUITO TO REVIEW DEVELOPMENTS IN LIMA.

7. MEETINGS WITH PERUVIAN MINISTRIES WHICH HAVE JURISDICTION OVER FOREIGN INVESTMENT MATTERS REVEALED NO DEEPSEATED PHILOSOPHICAL OBJECTION TO REESTABLISHING OPIC PROGRAMS IN THE COUNTRY. WEISENFELD MET WITH OFFICIALS OF THE FOREIGN MINISTRY, CONITE, AND THE MINISTRY OF INDUSTRIES (INTEGRATION OFFICE). WERE IT NOT FOR THE NEGATIVE ATTITUDE WITH THE ANDEAN PACT LEGAL OFFICERS, THERE WOULD BE GROUNDS TO FEEL THAT CONVERSATIONS WITH RELEVANT PERUVIAN OFFICIALS COULD BE UNDERTAKEN QUICKLY. INDEED, THE LEGAL ADVISOR TO THE OFFICE OF INTEGRATION ADVISED WEISENFELD THAT THE OPIC QUESTION SHOULD HAVE BEEN TREATED AS A POLITICAL QUESTION FROM THE START. HE RECOMMENDED THAT IF OPIC WANTED AN AUTHORITATIVE OPINION ON THE POSSIBILITY OF OPIC OPERATIONS, OPIC SHOULD MAKE A FORMAL REQUEST TO CONITE COMPLETE WITH DOCUMENTATION AND PRESENTED BY A KNOWLEDGEABLE OFFICER QUALIFIED TO ANSWER ALL QUESTIONS.

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Message Attributes

Automatic Decaptoning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: INSURANCE, DIPLOMATIC DISCUSSIONS, FOREIGN INVESTMENTS, PROGRAMS (PROJECTS)
Control Number: n/a
Copy: SINGLE
Draft Date: 05 apr 1978
Decapton Date: 01 jan 1960
Decapton Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 jan 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978LIMA02892
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780150-0070
Format: TEL
From: LIMA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780491/aaaacyxc.tel
Line Count: 113
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 6d12eeb5-c288-dd11-92da-001cc4696bcc
Office: ACTION OPIC
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 18 mar 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3070507
Secure: OPEN
Status: NATIVE
Subject: OPIC TALKS WITH ANDEAN PACT LEGAL OFFICERS AND GOP
TAGS: EFIN, EINV, PE, OPIC, ANDEAN PACT, (WEISENFELD, LORIN S)
To: STATE
Type: TE
vdkvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/6d12eeb5-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014